HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No.17295 OF 2000

–

Between:

N.Param Jyothi
.....Petitioner

AND

A.P. Transco,
represented by its Director,
Vidyut Soudha,
Hyderabad & another.
.....Respondents

:: O R D E R ::

Counsel for the petitioner : Sri T.Nagarjuna Reddy for Sri T.Niranjan Reddy

Counsel for the respondents : Sri Samineni Kishore

24th January, 2007

In this petition, the petitioner has prayed for quashing communication dated 11-7-2000, vide which Superintending Engineer, Operation Circle, A.P. Transco, Mahbubnagar (respondent No.2) rejected his candidature

for appointment as Junior Lineman on the ground that the certificate produced by him in support of his claim of having worked with the contractor is not genuine. He has further prayed for issue of a mandamus to respondent No.2 to appoint him as Junior Lineman or on any other equivalent post.

The petitioner's prayer for appointment as Junior Lineman is founded on the following assertions:

i) that after having passed SSC in 1983, he worked with Shri Jayanth Reddy, who was awarded various projects by the erstwhile Andhra Pradesh State Electricity Board (for short, 'the Board'), and who executed the works under the name and style of Raghavendra Engineers and Contractors, Mahbubnagar.

ii) that the Divisional Engineer, Transformers and Assistant Engineer (Technical) inspected the premises where the transformers were being repaired by the contractor. They verified the wage registers for the years 1989 to 1997 and appended their signatures;

iii) that the contractor gave him Work Certificate, which was duly verified by the officer working under respondent No.2 and Additional Assistant Engineer, Operations had written letter to respondent No.2 certifying his service under the contractor, and

iv) that even today, he was working with the contractor.

It is borne out from the record that earlier the petitioner had filed two writ petitions in the matter of his appointment as Junior Lineman. Writ Petition No.27853 of 1997 filed by him for issue of a direction to the respondents

to appoint him in the services of the Board in terms of the policy contained in B.P.Ms.No.36, dated 18-5-1997 was disposed of by the learned Single Judge by directing the respondents to interview him. In compliance of the Court's order, the petitioner was interviewed, but the result of the interview was not declared. He then filed Writ Petition No.25717 of 1999, which was disposed of by the learned Single Judge at the admission stage by directing the respondents to declare the result of interview. Thereafter, respondent No.2 issued letter dated 11-7-2000 whereby he rejected the petitioner's candidature on the ground that the service certificate produced by him was not genuine. The relevant extracts of that letter are reproduced below:

> "In the reference 1st cited, the Hon'ble High Court passed orders that "to consider the claim of the petitioner in the light of B.P.Ms.No.36, dated 18-5-1997 provided he is eligible for absorption.
>
> In pursuance of the above orders of the High Court, you have been interviewed on 28-10-1997 by the selection committee.
>
> On verification of records produced by you, the following was noticed.
>
> "The Agreement Numbers given in the service certificate do not pertain to the works taken up by the contractor who issued the Service Certificate. Hence, the certificate produced by you is not acceptable as it is not a genuine."
>
> In view of the above, your case for appointment for the post of Junior Lineman cannot be considered and hence rejected."

The petitioner has questioned the rejection of his candidature mainly on the ground of arbitrariness and

discrimination. He has pleaded that respondent No.2 rejected his candidature without considering the documents available on record, which clearly prove that he had actually worked under the contractor engaged by the Board. In the counter-affidavit filed on behalf of the respondents, it has been averred that the petitioner was not considered eligible for recruitment as Junior Lineman because his certificate was not genuine. The stand of the respondents is evinced from paragraphs 4 and 5 of the affidavit of Sri B.S.Ramachandra Rao, Assistant Secretary (Legal), A.P. Transco, which are reproduced below:

> "4. Adverting to paras 5, 6, 7 & 8 of the affidavit, it is submitted that it is a fact that the erstwhile APSEB has issued B.P.Ms.No.36, dt.18-5-1997 ordering to fill up 50% vacancies of Junior Lineman/JPA/LDC/Typist/ Sub-Engineer by giving suitable guidelines for making recruitments from among the ex-casual labour, Village Electricity Worker and contract labour. According to the above guidelines, interviews were held in Operation Circle, Mahbubnagar on 27-10-1997, 28-10-1997, 4-4-1998, 12-6-1998, 21-6-1998 and 2-2-1999. The petitioner has attended for interview on 28-10-1997. On verifying the certificates produced by him it is found that he has worked with M/s.Raghavendra Engineering Contractors, Mahbubnagar from 1-5-1989 for the works of erection of 11 KV lines and 33 KV lines under Agreement Numbers 119/94-95, and T-104/97-98, duly countersigned by the AAE/C&O/Mahbubnagar. The Service Certificate produced by the candidate is having corrections made with white fluid at four places. When the same has been referred to AAE/C&O/Mahbubnagar vide this office memo No.SE/OP/MBNR/ Adm-C2/D.No.66, dt.10-4-2000, the AAE/C&O/Mahbubnagar vide his

Lr.No.AAE/C&O/MBNR/D.35, Dt.22-4-2000 has certified that the Service Certificate issued by the contractor is genuine mentioning K2 Agreement Number 104/97-98. When the case has been referred to the DE/OP/Mahbubnagar vide this office Memo No.SE/OP/MBNR/ Adm-C2/D.No.99/2000, dt.22-5-2000, the DE/OP/Mahbubnagar in his Lr.No.DE/OP/MBNR/Adm-C1/D.No.28, dt.6-6-2000 has informed that the Agreement Number K2/104/97-98 pertain to the hiring of jeep entered by the contractor by name Sri M.A.Samad and K2 Agreement Number 119/97-98 pertains to Operation and Maintenance of 33/11 KVSS, Kollur, entered by Sri Md.Inayathulla Shariff. The Service Certificate issued by M/s.Raghavendra Engineering Contractor to Sri N.Paramjyothi is not correct as the agreement numbers and the nature and location of the works pertain to some other contractors. Hence, speaking orders were issued to the petitioner vide this office Lr.No.SE/OP/MBNR/Adm-C2/D.No.4845/2000,dt.11-7-2000 stating that the "Agreement Numbers given in the Service Certificate do not pertain to the works taken up by the contractor who issued the service certificate. Hence, the service certificate issued by the contractor and produced by the candidate is not acceptable as it is not a genuine."

5. Adverting to paras 8, 9 & 10 of the affidavit, it is submitted that the DE/Transformers/Mahbubnagar and with the assistance of AE/Tech. has to inspect the sheds where the failed Transformers are being repaired in the district periodically to assess whether the work is being carried out by the contractor as per the specifications contained in the agreement. Accordingly, they have inspected the site of M/s.Raghavendra Engineering Works and have signed in the register. The case of the petitioner has been considered by the Selection Committee on 28-10-1997 based on the service certificate issued

by the contractor and produced by the petitioner at the time of interview which is subsequently found as bogus. Hence, his claim for appointment in APSEB/APTRANSCO is rejected. In this connection, it is submitted that only the material produced at the time of interview could be considered for making appointment but not subsequent material produced at a later date. Mere availability of his name in the wage register of the contractor does not entitle him to claim absorption in APSEB/APTRANSCO as his services have not been utilized by the contractor for the works of this Circle.

It is also submitted that in this office Memo No.SE/OP/MBNR/Adm-C2/D/No.208, dt.25-10-2000 explanation of the AAE/C&O/Mahbubnagar who has countersigned the above service certificate issued by the contractor has been called for submitting wrong information. The AAE/C&O/Mahbubnagar in his explanation received vide Lr.No.DE/OP/ MBNR/Adm-C2/F.No.58/D.No.88, dt.6-12-2000 has informed that because of the several problems being faced by him in field he has countersigned the above service certificate without properly verifying the agreement numbers which is erroneously certified by him is a mistake on his side and requested to exonerate him for the above mistake. For having countersigned on a bogus service certificate issued by the contractor, disciplinary action is being initiated against the AAE/C&O/Mahbubnagar."

The petitioner has not filed reply/rejoinder affidavit to controvert the averments contained in the counter affidavit of the respondents. Therefore, the assertions contained in paragraphs 4 and 5 of the counter affidavit will have to be treated as correct.

I have heard learned counsel for the parties and perused the record. In my opinion, the writ petition is

liable to be dismissed because the petitioner has not produced before the Court the certificate allegedly issued by the contractor, which is said to have been duly verified by the officer working under respondent No.2 and letter allegedly written by Additional Assistant Engineer, Operations, certifying that he (the petitioner) had worked with the contractor engaged by the Board and without going through the contents of these documents, it is not possible for the Court to express any opinion on its genuineness or otherwise or record a finding that the reason assigned by respondent No.2 for rejection of the petitioner's candidature is extraneous, irrelevant or legally untenable.

There is another reason for my disinclination to entertain the petitioner's prayer. The question whether the certificate produced by the petitioner is genuine or not requires investigation into issues of fact, and such an exercise cannot be undertaken by the High Court in exercise of power under Article 226 of the Constitution of India. For this purpose, an effective alternative remedy is available to the petitioner by way of civil suit.

In the result, the writ petition is dismissed leaving the petitioner free to avail other legal remedies.

G.S.SINGHVI, C.J.

24th January, 2007.

ARS